

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

JAMES WARR,
Petitioner,

-vs-

Case No. A-21-CV-024-LY

BOBBY LUMPKIN,¹
Respondent.

**ORDER DIRECTING RESPONDENT
to ANSWER PETITION**

In accordance with Rules 4 and 5 of the Rules Governing Section 2254 Cases, **the Clerk shall serve Respondent with a copy of Petitioner's 28 U.S.C. § 2254 Habeas Corpus Petition and direct Respondent to file an Answer or other response.**

Accordingly, **IT IS ORDERED:**

1. Service on Respondent: The Clerk shall serve the § 2254 Petition and this Order electronically via CM/ECF on the Texas Attorney General and counsel for the Director, directed to the attention of Edward Marshall, Assistant Attorney General, Chief of Criminal Appeals Division, and Laura Haney.

2. Respondent's Answer: Respondent shall file an Answer within twenty-eight (28) days after receipt of the §2254 Petition. Respondent's Answer shall conform to Rule 5 of the Rules Governing Section 2254 Cases and Federal Rule of Civil Procedure 12. Respondent shall serve Petitioner with a copy of the Answer as required by Federal Rule of Civil Procedure 5(b).

3. Affirmative Defenses: Respondent should address whether Petitioner has exhausted administrative or state court remedies, whether the Petition was filed within the one-year limitations period of 28 U.S.C. § 2244(d), and whether Petitioner's claims are barred by abuse of the writ.

4. Petitioner's Reply: Petitioner shall file his Reply to Respondent's Answer within twenty-one (21) days after Respondent serves Petitioner with Respondent's Answer.

¹ Bobby Lumpkin, the current Correctional Institutions Division Director, is the proper respondent and will be substituted.

5. Duty to Serve Opposing Counsel: Federal Rule of Civil Procedure 5(b)(1) requires that all documents submitted to the Clerk of this Court for filing be served on the opposing party through service on counsel for the opposing party. All documents submitted for filing must contain a certificate of service indicating the date and method (e.g. hand-delivery, certified mail, first class mail, etc.) by which Petitioner sent a copy of that document to Respondent's counsel of record. The Court will disregard any document submitted for filing by Petitioner that does not include a certificate of service.

6. Duty to Inform Court of Change of Address: Petitioner shall immediately notify the Clerk and Respondent's counsel in writing of any change of address. He shall caption any such advisories as "Notice to the Court of Change of Address" and not include any motions or other matters in such notice. Failure by Petitioner to furnish the Court and Respondent of a change of address may result in dismissal of the Petition.

7. State Court Records: Within twenty-eight (28) days after Respondent files an Answer or other responsive pleading, Respondent shall provide the Court with the relevant State court records.

8. Case Referred to a U.S. Magistrate Judge for Report and Recommendation: Habeas corpus petitions filed in this District are referred to a Magistrate Judge for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B).

SIGNED on January 13, 2021.



MARK LANE
UNITED STATES MAGISTRATE JUDGE